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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

WINDY CITY INNOVATIONS, LLC

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

Case Nos. 4:16-cv-01730-YGR

**JOINT CLAIM CONSTRUCTION AND
PREHEARING STATEMENT**

Pursuant to Patent Rule 4-3, Plaintiff Windy City Innovations, LLC (“Windy City”) and Defendant Facebook, Inc. (“Facebook”) submit this joint claim construction statement in preparation for the July 27, 2018 *Markman* hearing in this Action regarding U.S. Patent Nos. 8,458,245 (“the ’245 Patent”) and 8,694,657 (“the ’657 Patent”) (copies of which are attached hereto as Exhibits B and C, respectively).

1 **1. Construction of Those Terms On Which The Parties Agree**

2 The parties have reached agreement on the following term(s):

- 3 • **“token”** (’245 patent, claim 19; ’657 patent, claim 189): “piece of information
- 4 associated with user identity”
- 5 • **“database”** (’245 patent, claim 19; ’657 patent, claim 189): “a collection of
- 6 logically related data”
- 7 • **“private message”** (’245 patent, claim 19): “message with only one intended
- 8 recipient”

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10 **2. The Parties’ Proposed Constructions of Disputed Claim Terms**

11 The chart attached as Exhibit A sets forth Windy City’s and Facebook’s respective

12 proposed constructions of the ten disputed claim terms. The chart also identifies the intrinsic

13 and extrinsic evidence supporting each party’s respective proposed construction.

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15 **3. Identification of the Nine Most Significant Disputed Claim Terms**

16 The nine claim terms identified in Exhibit A are the claim terms whose construction

17 will be most significant to the resolution of the case. The parties address whether the terms

18 may be claim or case dispositive in their respective impact statements.

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20 **4. Claim Construction Hearing**

21 The parties anticipate that the *Markman* hearing set for July 27, 2018 will take

22 approximately 3 hours, split evenly per side.

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24 **5. Possible Witnesses at the Claim Construction Hearing**

25 Subject to the Court’s preference, the parties do not anticipate calling any live witnesses

26 at the claim construction hearing.

27 Windy City may offer the expert testimony of Dr. Mark Jones in support of Windy City’s

28

1 claim constructions through declaration. Dr. Jones may provide a general overview of the
2 patented technology. Dr. Jones may testify regarding the level of ordinary skill in the art in the
3 fields of the '245 Patent and '657 Patent, that one of such skill in the art would have understood
4 or construed the claim terms in the manner that Windy City has proposed, and that Windy City's
5 proposed constructions are derived from the intrinsic, and where applicable, the extrinsic
6 evidence. Dr. Jones may testify regarding the reasons why certain of the disputed claim terms
7 that Facebook contends are indefinite are not indefinite, the reasons that certain of the disputed
8 claim terms should have the meanings attributed to them by Windy City, and the reasons the
9 disputed claim terms should not have the meanings attributed to them by Facebook.

10 Facebook may offer the expert testimony Mr. Stephen Gray in support of Facebook's
11 claim constructions through declaration. Mr. Gray may testify regarding the level of ordinary
12 skill in the art in the fields of the '245 Patent and '657 Patent, the reasons that certain of the
13 disputed claim terms are indefinite, the reasons that certain of the disputed claim terms should
14 have the meanings attributed to them by Facebook, and the reasons the disputed claim terms
15 should not have the meanings attributed to them by Windy City. The specific disputed claim
16 terms about which Mr. Gray may offer an opinion are identified in Exhibit A. Mr. Gray may
17 also provide a general overview of the patented technology.
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1 Dated: April 13, 2018

Respectfully submitted,

2 COOLEY LLP

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4 /s/ Heidi L. Keefe

5 Heidi L. Keefe
6 Attorneys for Defendant
7 FACEBOOK, INC.

8
9 CALDWELL CASSADY & CURRY

10
11 /s/ Bradley W. Caldwell

12 Bradley W. Caldwell
13 Attorneys for Plaintiff
14 WINDY CITY INNOVATIONS, LLC
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